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**15. ALASKA NATIONAL INTEREST LANDS  
CONSERVATION ACT**

(Selected Provisions)

[As amended through December 31, 1996, P.L. 104-333]

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## 15. ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Selected Provisions)

(Public Law 96–487; Approved Dec. 2, 1980)

AN ACT To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wildlife and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. [16 U.S.C. 3101 note] This Act may be cited as the “Alaska National Interest Lands Conversation Act”.

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## TITLE V—NATIONAL FOREST SYSTEM

### ADDITIONS TO EXISTING NATIONAL FORESTS

Sec. 501. [16 U.S.C. 539] (a) The following units of the National Forest System are hereby expanded:

(1) Chugach National Forest by the addition of four areas, Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay, containing approximately 1,900,000 acres of public land, as generally depicted on the map entitled “Chugach National Forest additions—proposed”, and dated October 1978; and

(2) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately 1,450,000 acres of public lands, as generally depicted on the map entitled “Tongass National Forest additions—proposed”, and dated October 1978.

(b) Subject to valid existing rights, lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided*, That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978: *Provided*, That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner

consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary.

#### MINING AND MINERAL LEASING ON CERTAIN NATIONAL FOREST LANDS

Sec. 502. Subject to valid existing rights, the minerals in public lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such areas, the Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by Reorganization Plan Numbered 3 of 1946 and the Act of March 4, 1917 (39 Stat. 1150; 16 U.S.C. 520), and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests.

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#### FISHERIES ON NATIONAL FOREST LANDS IN ALASKA

Sec. 505. [16 U.S.C. 539b] (a) The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national first lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection.

(b) Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine—

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

- (A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and
- (B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;
- (2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—
  - (A) the natural stability and the present and continued productivity of anadromous fish and other foodfish;
  - (B) fishery habitat, including but not limited to water quality and water quantity; and
  - (C) other fishery values;
- (3) that such plan includes provisions which he determines are adequate for the purposes of—
  - (A) preventing significant adverse environmental impacts to the fishery habitat (including but not limited to water quality and water quantity) or other fishery values; and
  - (B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;
- (4)(A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;
- (B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations of fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and
- (5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed 7 days, provided the activity may be resumed at the end of said 7-day period unless otherwise required by a United States district court.
- (c) Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Except as specifically provided in subsection (b)(5), nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

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#### COOPERATIVE FISHERIES PLANNING

Sec. 507. [16 U.S.C. 539c] (a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

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## TITLE VII—NATIONAL WILDERNESS PRESERVATION SYSTEM

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#### NATIONAL FOREST TIMBER UTILIZATION PROGRAM

SEC. 705. [16 U.S.C. 539d] (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.

(b)(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might

otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated \$5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) Within three years after the date of enactment of this Act, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k))<sup>1</sup> shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.

(e) In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation handbook<sup>2</sup> (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms "Class I streams" and "Class II streams" mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.

<sup>1</sup> The reference in subsection (d) should be to the Forest and Rangeland Renewable Resources Planning Act of 1974. The National Forest Management Act of 1976 consisted primarily of amendments to the former Act.

<sup>2</sup> Note regarding subsection (e): The reference to the Region 10 Soil and Water Conservation handbook should be capitalized.

(f) Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as "small business concerns" under the Small Business Act as amended (15 U.S.C. 631 et seq.).

#### REPORTS

SEC. 706. [16 U.S.C. 539e] (a) The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.

(b) Within five years from the date of enactment of this Act and every two years thereafter, the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeastern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels in the forest since the enactment of this Act; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; (4) the status of the small business set aside program in the Tongass Forest,<sup>1</sup> and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.

(c) The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, the southeast Alaska commercial fishing industry, and the Alaska Land Use Council..<sup>2</sup>

<sup>1</sup> The comma at the end of paragraph (4) of subsection (b) should be a semicolon.

<sup>2</sup> Two periods appear at the end of subsection (c).